BALKANS SUPPORT CONTRACT
Use of Rough Order of Magnitude Estimates

1.   **Purpose:**

        This guide is designed to help task force personnel understand the purpose of the Brown and Root Services (BRS) process for preparing rough order of magnitude (ROM) estimates, and the government's statutory responsibility to protect BRS's proprietary information from unauthorized release outside the government.

2.   **Background**:

        An ROM is an unofficial very rough estimate of what it will take for BRS to perform a task force requested project. The ROM process was designed to give task force personnel insight into what a project may consist of from BRS's perspective, and rapid, advance notice of what it may cost if performed by this contractor.   This allows task force leaders to consider mission and budget issues associated with the proposed project.

        The ROM is developed after task force personnel, the ACO and BRS have agreed on the scope of work.

        BRS gives the ROM to the ACO for introduction at the Joint Acquisition Review Board (JARB) meeting. The JARB process is detailed in USAREUR guidance. However, one of the functions of the JARB is the review and approval of new work under the Balkans Support Contract.

        ROM's are not required by the terms of the Balkans Support Contract. The contractor is not contractually bound to cost figures presented in a ROM.   BRS does <u>not</u> certify the accuracy of the cost data used to develop a ROM. This statutory certification occurs months later when BRS submits a proposal to the government and the government formally negotiates the estimated cost with BRS under the cost reimbursable contract.

        Government personnel who evaluate ROM's should understand that the ultimate accuracy of an initial ROM estimate might vary considerably depending upon the time given BRS to prepare the ROM and the complexity of the task. Thus, government personnel should not rely on ROMs as authoritative or controlling with regard to costs. To assist you, we have examined historical date for ROM accuracy, and can provide the following with respect to the general accuracy of a ROM based on BRS's representation of expectations, and not based on any formal requirement:

        a.   If a ROM is required within 24 hours, then the initial ROM estimate may vary in accuracy within plus or minus 50% of the total ROM cost.

        b.   If a ROM is required within three days, then it is generally accurate within plus or minus 20%.

c.   If ROM preparation does not have any time constraints, then it is generally accurate within plus or minus 5%.

Generally a ROM will contain several cost presentations. For a non-recurring task (for example, build a theater) the ROM will-contain two summarized totals: the projected "EFFECT ON THE ESTIMATE AT COMPLETION (EAC)" and "TOTAL COST."

a. The "EFFECT ON THE EAC" is the projected <u>increase</u> to the "Estimate at Completion" to the contract as presented in the Weekly Management Report, distributed each Tuesday by the USAREUR DCSLOG. The "EFFECT ON THE EAC" is the amount of money that should be deducted initially from the ACO's "checkbook" if a notice to proceed is issued.

b. The "TOTAL COST" is the "EFFECT ON THE EAC" **plus** any proposed government-provided materials and supplies (items issued from the SSA) and any proposed items available from the "harvest stockpile." The "TOTAL COST" is the value of the project that is used to determine at what level this project can be approved.

For recurring missions/services the ROM may contain: "INITIAL or START UP" costs **plus** "RECURRING MONTHLY" costs. Approval levels are determined by adding the "INITIAL or START UP" costs to the "RECURRING MONTHLY" costs times the period services are to be provided.

3.   **Proprietary Information.**

Each ROM provides useful information such as, rough estimates of labor, material and equipment costs, and assumptions used by BRS as they developed the ROM. Some of this information may be proprietary; therefore, the ROM is marked "Proprietary Information" by BRS on each page of the ROM.

The Trade Secrets Act (18 U.S.C. 1905) is a criminal statute that prohibits a federal employee from unauthorized disclosure of:

"any information coming to him in the course of his employment … [that] relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association…"

The Procurement Integrity Act (41 U.S.C 423) prohibits federal procurement officials from disclosing before award "contractor bid or proposal information" (defined to include certain cost or pricing data, indirect costs and direct labor rates, and information marked by the contractor as proprietary).

Exemption number four of the Freedom of Information Act (5 U.S.C. 552) protects proprietary information from release outside the government; see DODD5400.7-R Freedom of Information Act Program for additional information.

Proprietary information is defined in the DODD as information that contains trade secrets, commercial, or financial information received in confidence in connection with a contract. The government receives information from BRS in connection with the Balkans

Support Contract ROM process with the understanding that proprietary information will be retained on a privileged or confidential basis. As reflected in the DODD, the disclosure of such information may be likely to cause substantial harm to the competitive position of BRS or impair the government's ability to obtain necessary information. The final total estimated cost for the performance of the work contained in a ROM may not be proprietary information. However, the individual cost elements for labor, equipment and other associated costs information that goes into the make-up of the bottom line cost may be proprietary information. BRS usually stamps each ROM as containing proprietary information. Before any such information is released to sources outside the Government, BRS must be contacted and given the opportunity to object to the release, and the government must make a separate finding under the DODD as to the proprietary nature of the information.
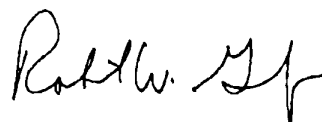
Even if the task force could release proprietary information outside the government in an effort to obtain lower prices, it is not a good business practice. Why? If a contractor learns that the government is disclosing prices in its ROMs the tendency may be to artificially inflate or reduce ROM prices to avoid competition or avoid performing unwanted work. Therefore, improper disclosure will undermine the purpose of the ROM process, which is to encourage the greatest accuracy in the cost information provided.

4.   **Procedures:**

The Balkans Support Contract is a cost reimbursement contract, so the government must reimburse BRS for its reasonable, allowable, and allocable costs to prepare each ROM. The preparation of a ROM can be an expensive process, varying in cost from as little as $65.00 to over $2,500.00. Therefore, to save costs, the USAREUR JARB procedures, set forth in Memorandum, AEAGF-PB, subject: Contingency Operations Financial Management Implementation Instructions, 15 March 2000, requires that the ACO only request a ROM after the JARB has met and determined that the Balkans Support Contract is the vehicle of choice to execute the work.

To protect proprietary information from unauthorized release, the following procedures have been developed: The ACO delivers the requested ROM to the JARB meeting for review. After the JARB meeting, the ACO collects the ROM and safeguards the ROM from release outside the government. Later, task force personnel (government employees) may visit the ACO and review the ROM in the ACO's office.

If the task force needs general pricing information, rather than looking to a ROM the options available are market research and/or the preparation of independent government estimates for the work at hand. The Joint Contracting Command and the Base Camp Coordinating Activity can help in these areas.

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